

**ONEIDA COUNTY PLANNING & ZONING**  
**June 21, 2006 - 2:30 P.M. –PUBLIC HEARING - COMMITTEE ROOM #2**  
**ONEIDA COUNTY COURTHOUSE**  
**RHINELANDER, WI 5450**

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Members present: Chairman Bob Metropulos  
Larry Greschner  
Ted Cushing  
Frank Greb  
Scott Holewinski

Department staff present: Karl Jennrich, Zoning Director  
Nadine Wilson, Land Use Specialist  
Steve Osterman, Planning Manager  
Mary Bartelt, Typist III

Other Department staff  
Present:

See Attached Guest List:

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Call To Order:

Chairman Metropulos called the meeting to order at 2:30 p.m., in Committee Room #2, Oneida County Courthouse, Rhineland, WI 54501 in accordance with the Wisconsin Open Meeting Law.

Discussion/decision to approve the agenda

**MOTION: (Larry Greschner/Frank Greb) to approve the June 21, 2006 Public Hearing agenda. All “aye” on voice vote. Motion carries.**

**Conditional Use Permit Application** of Wisconsin Valley Improvement Company, owner, David Coon, agent, to construct a boat launch, parking area & picnic area on the Rainbow Reservoir, which is located on the north side of County Hwy D. On the south side of Highway D below the dam a parking area, walking trail, canoe portage trail and a fishing platform is proposed. General location is west of the Rainbow Dam Bridge. Said property is located in part of Gov't Lot 8, Section 30, T39N, R8E, in the Town of Newbold.

Karl Jennrich, Zoning Director, read the Notice of Public Hearing into the record and offered proof of publication from the Rhineland Daily News, published on June 6, 2006 and June 13, 2006. The Notice was posted on the Oneida County Courthouse Bulletin Board on June 2, 2006. Mr. Jennrich noted that the notice recipient list was part of the record and was available for review. The certified and first class mailing list was read into the record.

Mr. Jennrich read the following correspondence into the record:

1. Approved by the Town of Newbold Planning Commission on June 8, 2006. Letter dated June 9, 2006

Mr. Coon explained to the Committee that under the Wisconsin Valley Improvement Company's Federal Energy Regulatory Commission License that was issued in July of 1996, WVI was required to develop a recreation plan for implementing a number of features and practices on their reservoir system. One plan was the necessary development of a new recreational site on the Rainbow Reservoir to meet the demand of increased recreational use. This plan was subsequently approved by FERC, Federal Energy Regulatory Commission (Americans with Disabilities Act guidelines).

Mr. Coon explained the general information to the committee. EXHIBIT #1

Mr. Jennrich stated that WVI (Wisconsin Valley Improvement) have their Chapter 30 permits from the DNR, the required amount of parking and have also taken care of solid waste. There will be no water supply or outdoor storage.

Copies of the "General Standards for Approval of the CUP" were supplied to the Committee. If the committee finds the standards have been met, and recommends approval of this application, staff would suggest the following conditions be placed on the CUP.

1. The nature and extent of the conditional use shall not change from that described in the application and approved in the Conditional Use Permit.
2. Time is of the essence to stabilize disturbed soils
3. The fishing platform to be constructed above the 1574.00 elevation in the tail water area
4. New parking lot setback to be 75' from the OHWM
5. Courtesy Pier for landing of the boats (upper part) will float to the elevation of the water level
6. Must conform to Wisconsin Department of Natural Resources permit requirements.

Chair Metropulos asked if anyone wished to speak for or against the Conditional Use Permit Application.

Chair Metropulos asked a second time if anyone wished to speak for or against the Conditional Use Permit Application.

**2:46 P.M.** The public hearing was closed from any further public comment.

**MOTION: (Scott Holewinski/Ted Cushing) that the General Standards for Approval of the CUP have been met, and the Conditional Use Permit be approved with conditions as listed, Item #3 on today's agenda. 4 aye 1 abstain (Frank Greb) Motion carries.**

**Conditional Use Permit Application** of Mark Berkebill, etal, to establish a marina at the Moen's Lake Campground, 4061 Lake Shore Drive, on property described as part of Gov't Lot 5, Section 26, T37N, R9E, in the Town of Pine Lake.

Karl Jennrich, Zoning Director, read the Notice of Public Hearing into the record and offered proof of publication from the Rhinelander Daily News, published on June 6, 2006 and June 13, 2006. The Notice was posted on the Oneida County Courthouse Bulletin Board on June 2, 2006. Mr. Jennrich noted that the notice recipient list was part of the record and was available for review. The certified and first class mailing list was read into the record.

Mr. Jennrich read the following correspondence into the record:

1. Letter from the Town of Pine Lake – approved the CUP Application with concerns.
  - a. Nothing to be constructed on the road right of way
  - b. No change in speed limit
  - c. Berkebill's to have full responsible liability
  - d. Signage to be approved
  - e. No parking allowed on the road right of way or town road
2. Letter dated June 19, 2006 from Gary & Barbara Hopkins – opposing the CUP

Mr. Jennrich briefly gave his condolences to the Berkebill family along with everyone attending the meeting.

Nadine Wilson, Land Use Specialist, presented the general information to the committee.

Ms. Wilson presented to the committee a copy of a 1998 aerial map view of the property. A 2002 Conditional Use Permit #1761-02 was issued for expansion of the campgrounds. At this time the Berkebill's were told that they had to comply with the pier ordinance. A complaint was received last Fall (2005) and Ms. Wilson sent a letter to the Berkebill's and they responded, so therefore, this has been going on since January of 2006. There appears to be a public boat access (on the South end of the Berkebill's property) and also a new public boat landing with parking facilities further North on Lakeshore Drive. The Berkebill's did apply and obtained a DNR permit sometime in April of 2006 for 6 piers and 26 berthing spaces. The Berkebill's were asking for marina status to have 6 piers and 26 berthing spaces. The property is zoned recreational. People who use the campsite leave there boat trailers approximately 1000 feet from the public boat access through the summer and leave there boats in the water along the small narrow tract of land. No statement of record exists on the property.

The legal description of the Berkebill's property runs to the water. So, where Lakeshore Drive is located, the Berkebill's would own all but the 66' easement for Lakeshore Drive. The number of piers the Berkebill's now have in the water is 12, 6 more than allowed per Ordinance 9.98. The reason that the Berkebill's were asking for the marina status was to accommodate people on a first come first served basis, on a yearly basis under 9.98 J (4) in the ordinance. What is being proposed is to leave the pier with the large deck, which does not comply with the P & Z Ordinance, in the water and to allow people who utilize the bar and restaurant to use that deck to access.

Nadine Wilson, Land Use Specialist, reads into the record the applicants proposal. "As a campgrounds, since the 1960's, the lakeshore has been used for swimming, fishing and boating. In the past the Berkebill's have used a combination of their own docks and camper docks to accommodate as many boaters as possible. The Berkebill's would now like to eliminate the "mish-mash" and conform to a more orderly and attractive situation. In the past the Berkebill's have had as many as a dozen docks in the water on the 620' of frontage. The Berkebill's propose by the permit to have six docks in total. One, the original dock is 78' long and 4' wide with an 8' x 10' deck at the end and the dock is used by restaurant boating customers, fishing and is suitable for the handicap customers. The Berkebill's propose that the dock be officially permitted on their application. In addition, the Berkebill's propose to build five more docks, three of the docks, 70' long, 4' wide and two of the docks at 50' long and approximately 4' wide. These docks would be made of either cedar or plastic decking on steel point poles and aluminum and would be built in the spring or when the permit is issued and completed by summers end!! Each dock would accommodate four or six boats from 16' to 24' and slips would be available on a first come, first served basis, one slip, one fee, one boat at a time in each slip. The Berkebill's also submitted the DNR permit application, which shows what the water depth is by the property. Most docks would be in approximately 3' of water.

Ms. Wilson reads the 9.98(J) marina permit guidelines into the record. "The right to place berths, berth structures or on-site storage facilities for boats accrues in proportion to the amount of shoreline owned as described in 9.98(D). Any such berth or storage facility in excess of the number permitted pursuant to section 9.98(D), shall be authorized only for the purpose of serving the public's interests and rights in the navigable waterways of this County. Such berths or on-site storage facilities must be available to members of the public on a first come – first served basis. Rentals or leases for the exclusive use of any such berths shall not be permitted for periods in excess of one year".

Mr. Karl Jennrich reads into the record the definition of a "marina". "Marina – an area on the river or lake devoted to marine and related recreational businesses and services".

Mr. Larry Greschner, "As far as the piers, it doesn't make any difference if they are the Berkebill's or the campers. Six are allowed for the property."

Ms. Wilson, "Six piers are allowed for the property with 13 berthing spaces." "Our ordinance states that if the Berkebill's apply for a conditional use permit for a marina, the Berkebill's can double the amount of berthing spaces, but not the amount piers." "The Berkebill's were aware of this when they came into the Planning and Zoning office in 2002 when they came in for the expansion of the campgrounds".

At this time, the Berkebill's have 12 piers and 27 berthing spaces. Ms. Wilson pointed out to the committee that according to 9.98 ordinance, if the Berkebill's apply for conditional use permit for a marina, they could double the amount of berthing spaces but not the amount of piers. Today, the amount of piers that are allowed are 6 and the amount of berthing spaces are 13.

Chair Metropulos asked if anyone wished to speak for or against the Conditional Use Permit Application.

Patti Pazera, 4198 Shady Lane. "There are 13 piers there right now and it is a mess there." "I was told by some people who have a trailer there that they must pay to put their piers in there, so they are being charged for a location. I don't know how that falls into zoning. If they were to grant this CUP, there is a lot of traffic coming up and down the road and half the time people are lying on the road. Bringing in a marina, I don't know what that allows them to do with gas and that, I mean they are pouring gas into the lake right now when filling up the boats."

Joe Pazera, 4198 Shady Lane, "I fish the lake quite often and on a couple of occasions, going by there, I've seen people adding gas to their pontoons, gas is spilling over and into the lake. To me, I see a sunken sailboat there year round and to me a lot of people that are there at the present with there boats there have little regard to the water quality and I come through there quite often because I live on Shady Lane and you get the kids going down on there bikes, not looking either way, people riding on golf carts to park along Lakeshore Drive to get onto their pontoons. They are illegal at this present, what is going to stop them in the future?"

Joy Ziergenbein, 3981 Lakeshore Drive, "I live on the south side of the Berkebill's and the campground lies in the bottom of two hills coming down and the speed was reduced to twenty-five miles an hour, but no one adheres to that. They come over the one hill from the north down, fast down the hill and then up the next hill in front of our house. We have tried to get a hidden driveway permit because we felt that there would be some kind a accident there and the town told my husband that there hasn't been an accident there yet, so they didn't want to issue a hidden driveway permit."

Beverly Schroepfer, an independent renter at 3980 Lakeshore Drive, "I live very close to the campgrounds and there are many little kids that cross that road and it is a very dangerous place already and I would hate to see any little kids or even adults get run over."

Nancy & George Schroepfer, Pine Valley Lodge, 3980 Lakeshore Drive, adjacent to the campgrounds. Some of the concerns of both Nancy and George Schroepfer are:

1. There is a limited amount of frontage
2. Concerned for the children crossing the road
3. Concerned with the pier issue (it is crowded now)
4. A marina would open up to being a business area
5. The proximity of the boat landing that already exists
6. Concern of specific beach area used and narrowness of campground area
7. Speed limit not enforced
8. The parking of boat trailers, etc.

George Schroepfer, co-owner of Pine Valley Lodge. Mr. Schroepfer concerns are:

1. Through the winter two piers were left in the ice and one of the piers cinder blocks fell off in the spring thaw
2. 16' to 18' sailboat left year round in the ice
3. Piers and boats not pulled out of the water during winter
4. Piers being added

5. Property not kept up and is unsightly and unsafe
6. If a marina would be approved, this could possibly bring in more businesses and could possibly affect Pine Valley Lodge's tourism

Chair Metropulos asked if anyone wished to speak for or against the Conditional Use Permit Application.

Chair Metropulos asked a second time if anyone wished to speak for or against the Conditional Use Permit Application.

**3:25 P.M.** The public hearing was closed from any further public comment.

Mr. Greschner, "It's unfortunate that the Berkebill's could not be here today to explain all these discrepancies." "I for one am very reluctant to proceed any further without an explanation of why they are already in violation."

Chair Metropulos, "Well, we could table this for a future hearing."

Mr. Jennrich, "Yes, especially if you have questions of the applicants."

Mr. Ted Cushing, "I have two questions." "Do we know who's renting these piers, are they people from the campground or somebody just coming down the road and says, I want to rent a pier, so I have a place to keep a boat?"

Ms. Wilson, "They (the Berkebill's) have people that are in the campground and they have people that are possibly down the road." "From what the Berkebill's have told me is that these are people who are staying at the campground."

Chair Metropulos, "And this is not against the ordinance?"

Ms. Wilson, "Not for their zoning district. They are allowed to have the campsite there, but the problem is that -----."

Mr. Greschner, "They still are in excess of what they are allowed." "Why hasn't this violation been dealt with?"

Ms. Wilson, "The complaint came in as anonymous." "Berkebill's purchased in 1991 and the Planning & Zoning Department received an anonymous complaint last summer with no signature on it and no one to contact." "A complaint call was received in 2005 and after that I then started the process."

Mr. Cushing, "What are the ramifications of this going to marina status?" "What are the additional things that could happen?"

Mr. Jennrich, "The double density." "They are not asking for gas sales, boat sales."

Ms. Wilson, "They are asking for six piers, five to be used by the patrons on a lease basis and the one pier, which they use for patrons to come to the restaurant and bar."

Mr. Greschner, "Hypothetically, if we were to grant the CUP, they still have to rip piers out?"

Mr. Jennrich, "Yes."

Ms. Wilson, "If we don't grant the CUP, I write them a letter that they have six piers and thirteen berthing spaces and that is all you can have." "If we do grant the CUP it is six piers and twenty-six berthing spaces and that is all they can have."

Mr. Greschner, "I would like to see this held over no matter how we go about this until such time the Berkebill's come in compliance to what they should have right now." "Otherwise we're just fostering this."

Mr. Jennrich, "Yes, that shouldn't be an issue and again one thing that the committee might want to ask the Berkebill's is that the property is a narrow piece of land and that there are legitimate safety concerns with this project."

Mr. Scott Holewinski, "Karl, this is zoned Recreational, it's not guaranteed that you can have a marina in recreational through a conditional use?"

Mr. Jennrich, "That is correct."

Mr. Holewinski, "The people crossing the road is still going to be a safety issue whether the Berkebill's have a marina or not." "They have this massive campground over here and those massive people are going to be using that lake frontage, so whether the marina is there or not there, they are still going to use the property."

Mr. Jennrich, "The biggest contention with a conditional use permit that we approve is the people coming from the expanded campground across the road using the lake."

Mr. Holewinski, "If you look at it, they are in violation and need to pull out the extra piers anyway."

Mr. Greschner, "I would like to see the pier issue cleaned up before we consider the CUP any further because they have to be down to six whether they are a marina or not."

Mr. Holewinski, "Can we put in a condition that all piers be removed at the end of the year prior to ice going in so they don't leave piers parked out in the ice?"

Mr. Jennrich, "I think that is legitimate."

Mr. Holewinski, "Can we put in a condition that no other boats will be docked besides the twenty-six allowable if it was approved for a marina for the twenty-six, meaning you can't have one sunken in the water, you can't have one pulled up on shore?"

Mr. Jennrich, "We have to." "I think counsel's even interpreted boats parked on land as a berth space."

Mr. Holewinski, "OK, they couldn't have extra boats all lined up on the shore?"

Ms. Wilson, "Right."

Chair Metropulos, "What about the boats along the piers, if parked overnight?" "Is that a berthing space?"

Mr. Jennrich, "Yes." "They can have twenty-six berthing spaces granted and six piers." "Boats parked up on land are considered berthing spaces."

Mr. Holewinski, "We could hold this over, we've had our public hearing." "Let's have staff clean up the situation first, go to the six piers." "How long of a time do we have to act on CUP?"

Mr. Jennrich, "You don't want to hold too long." "The only other comment is that if you are going to have the Berkebill's here to ask questions, you may want to keep the public hearing portion open just in case they provide testimony and the public may want to rebut that."

Mr. Cushing, "In all fairness and because of this unfortunate situation, leave it open."

Mr. Holewinski, "I think it should also be left open, but I think the pier situation should be cleaned up before we continue with this public hearing."

Committee agrees.

Committee agrees that Ms. Wilson put a letter together to the Berkebill's.

Mr. Jennrich will contact Corporation Counsel to find out if parking boats on land are considered berthing spaces.

**MOTION: (Ted Cushing/Larry Greschner) to take no action on this Conditional Use Permit and that we direct staff to keep the public portion of this hearing open until the Berkebill's can come back and either debate what has been said or add testimony of their own and that we also direct staff to get the current violations cleaned up on that property prior to returning for public hearing. All "aye" on voice vote. Motion carries.**

Adjourn

**3:36 P.M.** There being no further matters to lawfully come before the Committee; a motion was made by Scott Holewinski second by Larry Greschner to adjourn the meeting. All ayes on voice vote.

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Chairman Bob Metropulos

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Karl Jennrich, Zoning Director